ORDER RECEIVED/FOR FILING

IN RE: PETITION FOR VARIANCE

SW/S Reisterstown Road and NW/S

Naylor's Lane

(Pomona Apartments)
3rd Election District
2nd Councilmanic District

Pomona Associates

Petitioners

BEFORE THE

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case No. 95-472-A

\* \* \* \* \* \* \* \* \* \* \*

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as Parcel C of Pomona, a planned residential community located off of Reisterstown Road and Naylors Lane, just north of Old Court Road in Reisterstown. The Petition was filed by the owners of the property, Pomona Associates, by Gordon Sugar, General Partner, through their attorney, Richard Rubin, Esquire. The Petitioners seek relief from Section 1802.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section V.B.3 of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a building height of 65 feet in lieu of the maximum permitted 50 feet for a proposed six-story building on the subject site containing 2.995 acres. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Gordon Sugar, General Partner in Pomona Associates, property owner, Paul Lee, Professional Engineer who prepared the site plan for this project, and Tom Inwood, IV, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 2.995 acres, more or less, split zoned D.R.2, D.R. 10.5, D.R.16 and B.L. and is located within the garden and mid-rise apartment community

of Pomona. The Petitioners are desirous of developing the property with a six-story apartment building containing 55 units. Due to the size of the structure, the requested height variance is necessary. Testimony indicated that the proposed height of the building is consistent with the restrictive covenants agreement which was entered into between the property owners and the neighborhood community association whereby a large percentage of this development will remain undeveloped. A copy of this agreement was entered into evidence as Petitioner's Exhibit 2. Further testimony indicated that the Petitioners have met with adjoining property owners who have no objections to the variance.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

ORDER RECEIVED FOR FILING
Date
By

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized

ORDER RECEIVED FOR FILING
Date
Date

area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

<u>Anderson</u>, p. 39. See also <u>McLean v. Soley</u>, 270 Md. 208 (1973) at pps. 214-215.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested should be granted.

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

for Baltimore County

TMK:bjs



Baltimore County Government Zoning Commissioner Office of Planning and Zoning



Suite 112 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

August 7, 1995

Richard Rubin, Esquire Tom Inwood, IV, Esquire One South Street, 27th Floor Baltimore, Maryland 21202

RE: PETITION FOR VARIANCE
SW/S Reisterstown Road and NW/S Naylor's Lane
(Pomona Apartments)
3rd Election District - 2nd Councilmanic District
Pomona Associates - Petitioners

Case No. 95-472-A

Dear Messrs. Rubin and Inwood:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO

Deputy Zoning Commissioner

un this 16 troco

for Baltimore County

TMK:bjs

cc: Mr. Gordon E. Sugar, General Partner
Pomona Associates, 1 Pomona North, Pikesville, Md. 21208

Mr. Paul Lee

304 W. Pennsylvania Avenue, Towson, Md. 21204

People's Counsel

File



# Petition for Variance

to the Zoning Commissioner of Baltimore County Southwest Side/Reisterstown Road and

for the property located at

Southwest Side/Reisterstown Road and Northwest Side/Naylor's Lane, Parcel C 3rd District

which is presently zoned DR2 & DR10.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

Petitioner is requesting a variance to section 1802.2 & V.B.3 of the BCZR to permit a 6 story building with a height of 65' to be constructed in Parcel "C" (2.995 Ac.) in lieu of the required building height of 50' (a variance of 15').

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

1. Restrictive covenants on said property resulting from an agreement with the neighborhood community association whereby a large percentage of the entire tract is restricted from any development whatsoever.

2. That the topographical characteristics of said property, including an existing stream and its natural flood plain and utility right-of-ways,

Property is to be posted and advertised as prescribed by Zoning Regulations.

If or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and furth of the petition, and furth of the petition and furth of

		1/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Lessee.		Legal Owner(s)
(Type or Print Name)		Pomona Associates (Type or Print(Name)  By:
Signature		Signature
Address		Gordon E. Sugar, General Partner
City	State Zipcode	Signature
Attorney for Petitioner:		
Richard Rubii	n, Esquire	1 Pomona North 486-6394 Address Phone No
Lichard	Lelm	Pikesville, Maryland 21208
Signature		Name, Address and phone number of representative to be contacted.
27th Floor, (	One South Street Phone No 332-8509	Richard Rubin, Esquire
Saltimore, MI		One South Street, 27th Floor, Baltimon Address Maryland 21202 Phone No 332-8509
	April Administra	OFFICE USE ONLY  ESTIMATED LENGTH OF HEARING  Unavailable for Hearing
' 🛦		the following dates Next Two Months
Printed with Soybean Ink	_	ALLOTHER
an machined habet	<b>\</b>	1 DELIVER DI MONTH

#### Continuation Sheet A

make the development of the restricted portion of the property extremely difficult unless a portion thereof is developed in midrise units.

3. That the property contains numerous old, large trees and shrubs which cannot be preserved unless the density of development is concentrated to avoid destruction of these valuable and desirable natural assets.

00039518

Paul Lon DE

Ö

95-472-A

Paul Lee Engineering Inc. 304 W. Ponnsylvania Ace. Towson, Maryland 21204 410-821-5941

DESCRIPTION

PARCEL "C" 2.995 ACRE PARCEL PART OF THE LANDS OF POMONA, INC.

Southwest of Reisterstown Road, Northwest of Naylors Lane

Election District 3 Baltimore County, Maryland

Beginning for the same at a point, said point being located from the center of Old Court Road Northeasterly - 447.19 feet along the center of Naylors Lane and leaving said center of Naylors Lane N  $39^{\circ}42'05"$  W - 266.31 feet, thence (1) S  $57^{\circ}52'06"$  W 365.04 feet to intersect the Eastern Boundary Of Cedarwood Estates as recorded in Plat Book 60-87; thence binding on said Eastern Boundary (2) N  $14^{\circ}14'54''$  W - 50.00 feet, (3) N  $58^{\circ}17'25''$  W -139.85 feet and (4) N  $36^{\circ}$ 07'25" W - 67.87 feet; thence leaving said Eastern Boundary of Cedarwood Estates, the two following courses (5) N  $03^{\circ}32'25"$  W - 251.02 feet and (6) N  $88^{\circ}00'00"$  E -338.05 feet to intersect the Northern limit or 3rd line of the 2.1711 acre parcel as described in Variance Case # 77-198A, thence binding reversely on a part of said 3rd line and the 2nd line  $(7) \text{ S } 35^{\circ}00'00" \text{ W} - 110.00 \text{ feet and } (8) \text{ S } 55^{\circ}00'00" \text{ E} - 270.00 \text{ feet}$ to the point of beginning.

Containing 2.995 acres of land more or less.



J.O. 95-013 5/10/95

Site Planners

# 467 microfunds

### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY P5 -479-4 Towner, Maryland

District. 3rd.	Date of Posting 6/30/95
Posted for: Parione Apls.	***************************************
Petitioner: 19mone Apis	
Location of property: Nay lors Lans.	
Location of Signe: Facing York May, D.	v Property being zoned
Remarks:	
Posted by	Date of return: 7/2/95



#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-472-A
(Item 467)
Pomona Apartments
NW/S Naylors Lane, between the N/S Old Court
Road and SW/S Reisterstown Road
3rd Election District
2nd Councilmanic
Legal Owner(s):
Pomona Associates
Hearing: Thursday,
July 20, 1995 at 11:00
a.m. in Rm. 118, Old
Courthouse.

Variance to permit a 6-story building with a height of 65 feet to be constructed in Parcel "C" in lieu of the required building height of 50 feet.

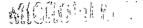
LAWRENCE E. SCHMIDT Zoning Commissioner for Baltimore County

NOTES: (1)Hearings are Handlcapped Accessible; for special accommodations Please Call 887-3353.

(2)For information concerning the File and/or Hearing, Please Call 887-3391.
6/371 June 29.

### CERTIFICATE OF PUBLICATION

TOWSON, MD.,	Le 129, 1985
THIS IS TO CERTIFY, that the ann	exed advertisement was
published in THE JEFFERSONIAN, a weel	dy newspaper published
in Towson, Baltimore County, Md., once in weeks, the first publication appearing on	10/00 DE
C. H. LEGAL AD	FERSONIAN,





Date 6/16/95

Baltinure Countr Zoning Administration & Development Management 111 West Chesupeake Avenue Towson, Maryland 21204

16661pt

Account: R-001-6150

Them: 467
Taken
In
By: MOK

Pomoria Associates - suls of Reistrolans P.C.

020 - Come Varionice - # 250000

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15.01 Par

Please Make Checks Payable To: Baltimore County

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE G/26/95
ACCOUNT D - 615

THE M # 467
Taken Ry 22501C

RECEIVED POMONE ASSOCIATED

FOR: 110 - Side Plan (Colors Received Billow) Billow Colors

DJA03#0006AICHRC \$100.00

BA CO03: 149/106-25-25

DISTRIBUTION WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER



111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

#### ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

#### PAYMENT WILL BE MADE AS FOLLOWS:

- Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper. NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:
Item No.: 467
Petitioner: Pomona Associales
Location: North west side of Naylor's La.
PLEASE FORWARD ADVERTISING BILL TO:
NAME: Richard Rubin, Esperce
ADDRESS: 27th Floor, One South Street
Balto. mo. 21202
PHONE NUMBER: (410) 332-8509



(Revised 04/09/93)

AJ:ggs

TO: PUTUXENT PUBLISHING COMPANY
June 22, 1995 Issue - Jeffersonian

Please foward billing to:

Richard Rubin, Esq.
One South Street, 27th Floor
Baltimore, MD 21202
332-8509

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-472-A (Item 467)

Pamona Apartments

NW/S Naylors Lane, between the N/S Old Court Road and SW/S Reisterstown Road

3rd Election District - 2nd Councilmanic

Legal Owner(s): Pomona Associates

HEARING: THURSDAY, JULY 20, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

Variance to permit a 6-story building with a height of 65 feet to be constructed in Parcel "C" in lieu of the required building height of 50 feet.

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

(2) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

#### Baltimore County Government Office of Zoning Administration and Development Management



111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

June 22, 1995

#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore
County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

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Legal Owner(s): Pomona Associates

HEARING: THURSDAY, JULY 20, 1995 at 11:00 a.m. in Room 118, Old Courthouse.

Variance to permit a 6-story building with a height of 65 feet to be constructed in Parcel "C" in lieu of the required building height of 50 feet.

Arnold Jablon

Director

Department of Permits and Development Management

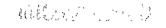
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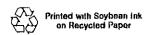
Pamona Associates

Richard Rubin, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
- (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.







111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

July 13, 1995

Richard Rubin, Esquire 27th Floor, One South Street Baltimore, Maryland 21202

RE: Item No.: 467

Case No.: 95-472-A

Petitioner: Pomona Associates

Dear Mr. Rubin:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on June 16, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

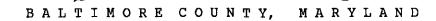
If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

W: Carl Richards, Jr. Zoning Supervisor

WCR/jw
Attachment(s)



WICKOFILMED



#### INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon,	Director, ZADM	DATE:	July	10,	1995	
FROM: Pat Keller, 1	Director, OPZ					
SUBJECT: Pomona						
INFORMATION:						
Item Number:	467					
Petitioner:	Pomona Associates		<del></del>		<del>-</del>	
Property Size:						
Zoning:	DR-2 & DR10.5					
Requested Action:	Variance		<del></del>	···	<del></del>	
Hearing Date:						
SUMMARY OF RECOMMEN	DATIONS:					
Based upon a review ment:	of the information provided, staff	offers	the fo	ollo	wing com	-
on April 28, 1988) ry, 65' high, 60 uni	Sixth Amended Final Development Plan indicates three proposed buildings. it midrise already exists on site. gh, 108 unit midrise and a five stor	Of the The pla	three	e, a o pr	five stoposes a	ο·
upon the applicant r	ing supports the petitioner's reques meeting with the Baltimore County La egetation be retained between the pr	ndscape	Plan	ner	to ensure	
Prepared by:	Miller					
PK/JL						



# Maryland Department of Transportation State High Way Administration

Secretary Hal Kassolf Administrator

7-7-95

Ms. Joyce Watson

Zoning Administration and

Development Management

County Office Building Room 109

111 W. Chesapeake Avenue Towson, Maryland 21204

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Re:

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Bob Swall

Ronald Burns, Chief
Engineering Access Permits
Division

Baltimore County

Item No.: 467

BS/

MCKOFILMED

#### Baltimore County Government Fire Department



700 East Joppa Road Suite 901 Towson, MD 21286-5500

(410) 887-4500

DATE: 07/03/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: POMONA ASSOCIATES

LOCATION: NW/S NAYLORS LA., BETWEEN THE N/S OLD COURT RD. AND SW/S

REISTERSTOWN RD. ( POMONA APARTMENTS)

Item No.: \

Zoning Agenda: VARIANCE

#### Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

- 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

ZADM

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper

MOREN

# BALTIMORE COUNTY, MARYLAND

## DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

## INTER-OFFICE CORRESPONDENCE

T0:

ZADM

DATE: <u>6/30/95</u>

FROM:

**DEPRM** 

Development Coordination

SUBJECT:

Zoning Advisory Committee Agenda: <u>6/24/95</u>

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s:

453 456 457

458

460

463

2.5

LS:sp

LETTY2/DEPRM/TXTSBP

RE: PETITION FOR VARIANCE	*	BEFORE THE
NW/S Naylors Lane, between the N/S Old		
Court Road and SW/S Reisterstown Road	*	ZONING COMMISSIONER
3rd Election District, 2nd Councilmanic		
	*	OF BALTIMORE COUNTY
Pomona Associates		
Petitioner	*	CASE NO. 95-472-A
<del>* *</del>		

#### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN
Perel ela Councel for Politimore Co

People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31 day of July, 1995, a copy of the foregoing Entry of Appearance was mailed to Richard Rubin, Esquire, One South Street, 27th Floor, Baltimore, MD 21202, attorney for Petitioner.

PETER MAX ZIMMERMAN

MUNOFILME

Paul Lee, P.E.

## Paul Lee Engineering Inc. 304 W. Pennsylvania Ave. Towson, Maryland 21204 410-821-5941

June 26, 1995

# 467

Mr. Mitch Kellman ZADM County Office Building Towson, Maryland 21204

Re: Special Hearing Pomona - Item #467 Our J.O. 95-013

Dear Mr. Kellman:

Please find enclosed herewith 12 prints of the revised Site Plan for the zoning petition for the above mentioned site. The revision was due to a change to the building size and location. I have also ebclosed a check for \$100.00 for the cost of the re-filing.

Trusting the enclosed is satisfactory. If there are any questions, please do not hesitate to call this office.

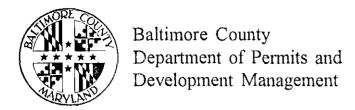
sera crara Aoura

Paul Lee

PL:lp Enclosures

cc: Mr. Gordon Sugar w/encl Mr. Rich Rubin w/encl.

MICROFILMIKI.



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

September 12, 1996

Richard Rubin, Esquire Neuberger, Quinn, Gielen, Rubin and Gibber 27th Floor, Commerce Place One South Street Baltimore, MD 21202-3201

> RE: Tract Boundary Determination 3rd Revised Plat of Pomona Plat Book 68, Folio 89 Zoning Case #95-472-A 3rd Election District

Dear Mr. Rubin:

This letter references your latest correspondence and plan, a prior meeting, and your submitted correspondence and plan requesting a zoning determination concerning applicability of tract boundary setbacks to new subdivision lines on the above referenced site.

Based on the provided information, this subdivision was originally recorded under record plat SM 26 and folio 132. A resubdivision occurred on the property in 1986 after most of the existing buildings were already constructed. Two subsequent resubdivisions occurred. One resubdivision occurred in 1993 (lots A-1-A and A-1-B) by record plat (SM 26, folio 22) with a note referencing that the resubdivision was for mortgage purposes. Another resubdivision occurred on May 20, 1996 (areas C, C-1 and F) by record plat (SM 68, folio 89).

A review of the tract boundary regulations under Section 1B01.2.C.e, Baltimore County Zoning Regulations (BCZR), and its predecessor Section 1B01.2.C.2.a, BCZR, and the fact that this site was approved for resubdivision under the previously referenced record plats which show no internal tract boundary lines, indicates that the parcels were resubdivided with Baltimore County approval. Therefore, tract boundary setbacks for the internal resubdivision lines are not applicable. Tract boundary setback requirements only apply to the actual outer boundary of the tract (roads being excepted).

Richard Rubin, Esquire September 12, 1996 Page 2

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

John L. Lewis Planner II Zoning Review

JLL:rye

c: zoning case #95-472-A

Enclosure



Ar you want



## COMMUNITY INPUT MEETING MINUTES

Development Name: Board of Child Care Cottage Development

Location: E/S of Rolling Road, S of Wild Cherry Road

District: 2c2

Christine Rorke, representing the Office of Zoning Administration and Development Management, called the meeting to order. Brief introductory comments were given about Baltimore County's development review process and the purpose of the meeting.

Date: June 14, 1995

ZADM File No: II-537

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Robert Rosenfelt, of Colbert, Matz and Rosenfelt, Inc., representing the developer, presented the development proposal. He introduced Tom Curcio, Executive Director for the Board of Child Care. Mr. Curcio explained that the development would consist of cottages to provide independent living for residents aged 16 to 21 years old. Those residents would be referred by the Department of Social Services and screened to select young persons with proper goals and objectives. They would need to be working or students. Three residents would live in each household with full time staff supervisors.

Mr. Rosenfelt explained that the site consisted of 6.7 acres. It has the zoning density capability to develop as 33 lots. The Board of Child Care proposed to create eight lots, one of which would contain an existing dwelling and five would be developed with single family cottages. Two of the lots would remain undeveloped and could possibly be used as a park. The site would be surrounded by trees as required by the forest conservation requirements. Public water and sewer would be connected to Montwood Road. Fire flow and sewer capacity tests have been completed and both utilities had sufficient capacity to allow for this development.

Tom Kerns, architect for the project, presented diagrams showing the exterior and the floor plans of the cottages. The houses would be bungalows with 1400 square feet on the first floor level and the lower level. The residents would share the upper level which would contain three bedrooms. The supervisor's quarters and storage space would be on the lower level. The houses were designed to blend in with the existing community. They would have stained wood siding and possibly some stone detail.

Mr. Rosenfelt outlined the county agency comments. The Office of Planning and Zoning requested that the right of way of Montwood Road be reserved, and the Department of Public Works requested that Montwood Road be extended and the access for the cottages be taken from Montwood Road rather than from Rolling Road. He presented a red line plan showing how the comments would be addressed.

The meeting was then opened for general discussion and questions as follows:

Why would the county want to extend Montwood Road? It has existed this way for 30 years and the extension would have an adverse impact on the residents.

### THE PINE RIDGE ASSOCIATION, INC.

7 PEACHTREE COURT PIKESVILLE, MARYLAND 21208

19 July, 1995

To whom it may concern:

Please be advised that the Pine Ridge Association does not object to the requested variance and proposal to build a mid-rise building on the Pomona property.

Nancy M. Rosenberg

President

PETITIONER'S
EXHIBIT 4A

Market State

LAW OFFICES

GORDON, FEINBLATT, ROTHMAN, HOFFBERGER & HOLLANDER, LLC

THE GARRETT BUILDING

233 EAST REDWOOD STREET

BALTIMORE, MARYLAND 21202-3332

410-576-4000

Telex 908041 BAL

Fax 410-576-4246

NANCY E. PAIGE 410-576-4294

July 18, 1995

#### VIA FAX 332-8594

Richard Rubin, Esquire One South Street Baltimore, Maryland 21202

Dear Mr. Rubin:

This will confirm my earlier communication that I support the requested 15 foot variance to permit construction of a six story mid-rise building in the location shown on the Plat to Accompany Petition for Variance, Revised June 26, 1995.

The proposed design refinements are consistent with the overall high quality of the Pomona development.

Very truly yours,

Nancy E. Paige

Rubin.ltr

48

#### CONSOLIDATED AMENDATORY AGREEMENT

THIS CONSOLIDATED AMENDATORY AGREEMENT, made this day of \_\_\_\_\_\_, 1987, by and between Pomona Associates, a Maryland general partnership (hereinafter referred to as "Pomona"), David M. Paige and Nancy E. Paige, has wife, (hereininafter referred to as the "Paiges"), and The Pine Ridge Association, Inc., Mark D. Dopkin and Ilene K. Dopkin, Anthony G. Marsiglia and Esther R. Marsiglia, and Sar Kaufman and Edith Kaufman (hereinafter collectively referred to as the "Pine Ridge Parties"), all of said Parties being in Baltimore County, State of Maryland.

#### WITNESSETH:

AGRHT

58.⊹

WHEREAS, Gordon E. Sugar, Pomona, Inc., and Gazaline Bernstein, and the Pine Ridge Association, Inc., Mark #32330 02004 701 1/1. and Ilene K. Dopkin, his wife, Anthony G. Marsiglia and Esther R. Marsiglia, his wife, and Sar Kaufman and Edith Kaufman, his wife, entered into an Agreement dated April 23, 1974, and recorded among the Land records of Baltimore County at Liber EHK Jr. 5590, Folio 001, imposing certain restrictive covenants on that certain tract of land located on the northwest corner of Reisterstown Road and Naylors Lane in the 3rd Election District of Baltimore County known as "Pomona" (the "Property") and which is more particularly described in Exhibit A attached herato. Said Agreement was modified and amended by the parties pursuant to an amendment dated November 21, 1975 and filed among the Land Records of Baltimore County in Liber No. EHK Jr. 5590 Folio 14 (the Agreement and the amendment thereto are hereinafter collectively referred to as the "Pine Ridge Agreement"); and

MAIL TO:

MELNICOVE, KAUFMAN, WEINER, SMOLISE & GARBUS, P.A.

30 G. CHARLES STREET, BALTIMORE, MD

ICOLPURAL TRIBRIUM TES APPLICABLE

NATURE \_\_\_\_\_ See 88

State Department of Assessments & Taxation for Baltimore County

-1-

Par Authorized Signature

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PETITIONER'S MIGROFILMED EXHIBIT 2

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WHEREAS, Pomona is the successor in interest to all the rights, title and interest of Gordon E. Sugar, Pomona, Inc. and Caroline Bernstein under the Pine Ridge Agreement; and

WHEREAS, Gordon E. Sugar and Paiges entered into a Deed and Agreement dated June 20, 1974, recorded among the Land Records of Baltimore County at Liber EHK Jr. 5456 Folio 972, imposing certain restrictions on the Property for the benefit of the Paiges' land. The Deed and Agreement was amended by the parties pursuant to an Amended Agreement dated November 21, 1975 and filed among the Land Records of Baltimore County at Liber EHK Jr. 5590 Folio 019 (the Deed and Agreement and Amendment thereto hereinafter collectively referred to as the "Paige Agreement"); and

WHEREAS, Pomona, the parties now desire to enter into this Consolidated Amendatory Agreement amending, modifying and altering the previous referenced Agreements in order to permit the construction of a second midrise unit in lieu of two (2) low-rise buildings in Area "C" on the Plat (the "Plat") dated September 9, 1975 and prepared by Schwartzman & Turkel & Rosen Partnership entitled Pomona, Gordon Sugar Developer a copy of which is attached hereto as Exhibit B.

NOW THEREFORE, this Consolidated Amendatory Agreement Witnesseth: That in consideration of the mutual agreements, covenants, restrictions and conditions herein contained and the payment of the sum of Five (\$5.00) Dollars and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The parties agree that all of the covenants, agreements and undertakings set forth in the Pine Ridge
Agreement and the Paige Agreement shall be effective and in

LAW OFFICES OF
MELNICOVE, KAUFMAN,
WEINER, SANGUSE
& GARBIS, P.A.
36 S. GMARLES STREET
BALTIMORE, MD
B1801-3060

-2-

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full force and effect as between the parties to those agreements except as expressly modified by this Consolidated Amendatory Agreement.

2. The Pine Ridge Agreement and the Paige Agreement are hereby modified as follows:

A. That in lieu of the two (2) low-rise buildings containing a total of twenty-four (24) units located in Area "C" on the Plat, at the option of Pomona a second midrise may be developed containing not more than fifty-six (56) units, to be located substantially as where shown on that plat prepared by the Turkel Collaborative, and entitled POMONA, Mid-Rise #2, June 8, 1987, a copy of which is attached hereto as Exhibit C. In the event Pomona shall elect this option, then the number of dwelling units contained in the seven (7) story midrise located in Area "F" on the Plat, will be reduced by a number equal to the number of dwelling units built in the second midrise less twenty-four (24). In no event shall the total number of dwelling units on the Property exceed 535 dwelling units.

3. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which when executed and delivered shall together constitute one and the same instrument.

WITNESS THE HANDS AND SEALS of the parties hereto on the day and year first above written.

WITNESS:

POMONA ASSOCIATES, a Maryland general partnership

MELNIGOVE, KAUFMAN,
WEINER, SMOUBE
& GARBIS, P.A.

Sindac Javanaus)

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Beulah Place	By:(SEAL)
Boulel Toland	/
	PINE RIDGE ASSOCIATION, INC. a Maryland corporation
Lindaa Dhusmann	President Tasu(SEAB)
	By: MARK D. DOPKIN (SEAL)
•	BY: ILENE K. DOPKIN (SEAL)
	By: Cutting Y : Marsiglia (SEAL) ANTHONY & MARSIGLIA
	By: Extent Mary Com (SEAL) ESTHER R. MARSIGLIX
	By: (11 1). KUUHAM (SEAL)

2301m

MELNICOVE, KAUFMAN, WEINER, SMOUSE & GARBIS, P.A. B. CHARLES STREET BALTIMORE, MD 81201-3060

STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

**的现在分词**,但是是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的,我们就是一个人的。

I HEREBY CERTIFY that on this Londay of Londay of 1988, before me, the undersigned, a Notary Public of Said State, personally appeared Gordon E. Sugar, who acknowledged himself to be the general partner of Pomona Associates, a Maryland general partnership, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized general partner of said general partnership.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:

7-1-90

STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

I HEREBY CERTIFY that on this Of day of Pleanhouse 1987 before me, the undersigned, a Notary Public of said State, personally appeared David M. Paige, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:

7-1-90

MELNICOVE, KAUFMAN,
WEINER, SMOUSE
& GARBIS, P.A.
36 S. CHARLES STREET
BALTIMORE, MO
81801-3080

-5-

STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

I HEREBY CERTIFY that on this Lotday of Meembers 1987, before me, the undersigned, a Notary Public of said State, personally appeared Nancy E. Paige, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:

7-1-90

STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

I HEREBY CERTIFY that on this do day of lelanders, before me, the undersigned, a Notary Public of said State, personally appeared Mark D. Dopkin, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires:

7-1-90

LAW OFFICES OF
MELNICOVE, KAUFMAN,
WEINER, SMOUSE
& GARSIS, P.A.

16 S. GMARLES STREET
BALTIMORE. MD
21201-3000

-6-

STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

I HEREBY CERTIFY that on this 15 day of File 1987, before me, the undersigned, a Notary Public of said State, personally appeared Ilene K. Dopkin, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

My

My Commission Expires:

Notary Public

7-1-90

STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

I HEREBY CERTIFY that on this 23 day of FEBRUAR 1988, before me, the undersigned, a Notary Public of said State, personally appeared Anthony G. Marsiglia, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

My Commission Expires:

Notary Rublic

7-1-90

LAW OFFICER OF
MELNICOVE, KAUFMAN,
WEINER, SMOUSE
& GARBIS, P.A.
70 S. CHARLES STREET
BALTIMORE, MO

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### LISER 7 8 5 6 PAGE 5 7 9

STATE OF MARYLAND )
To Wit:

CITY/COUNTY OF BALTIMORE)

I HEREBY CERTIFY that on this V3 day of Fibluary, 198%, before me, the undersigned, a Notary Public of said State, personally appeared Esther R. Marsiglia, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

My Commission Expires:

July 1, 1988

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Notary Pub

STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

I HEREBY CERTIFY that on this day of Monday 1985, before me, the undersigned, a Notary Public of said State, personally appeared Sar Kaufman, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

My Commission Expires:

7-1-90

Notary Public

LAW OFFICES OF MELNICOVE, KAUFMAN, WEINER, SMOUSE & GARBIS, P.A. 14 S. CHARLES STREET SALTINGRE, MD E1801-3000

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STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

I HEREBY CERTIFY that on this 844 day of 1988, before me, the undersigned, a Notary Public of said State, personally appeared Edith Kaufman, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

My Commission Expires:

7~1-90

STATE OF MARYLAND

To Wit:

CITY/COUNTY OF BALTIMORE)

acknowledged himself/herself to be the president of Pine Ridge Association, Inc., a Maryland corporation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained as the duly authorized president of said corporation.

WITNESS my hand and Notarial Seal.

My Commission Expires:

7-1-90

2301m

NICOVE, KAUPMAN WEINER, SHOUSE & GARBIS, P.A.

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#### EXHIBIT A

All that property located in Baltimore County, State of Maryland more particularly shown on that certain plat entitled "Revised Plat of Pomona, 3rd Election District Baltimore County, Md." prepared by Kidde Consultants, Inc. and filed among the Land Records of Baltimore County on June 29, 1987 at Liber S.M. 56, Folio 132.

4903m

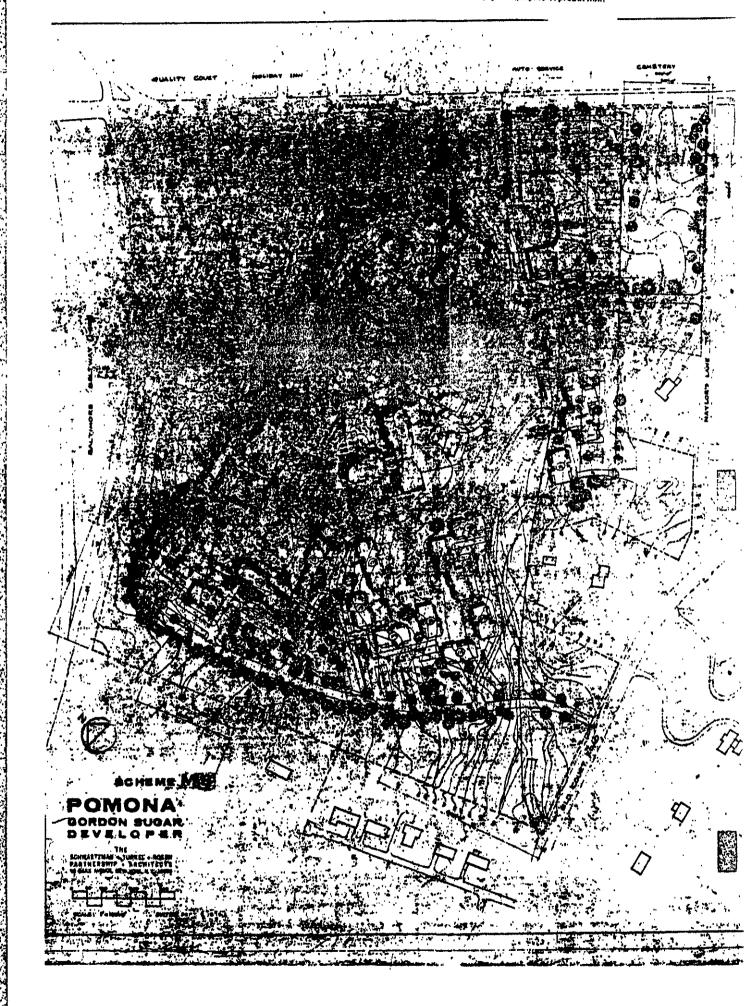
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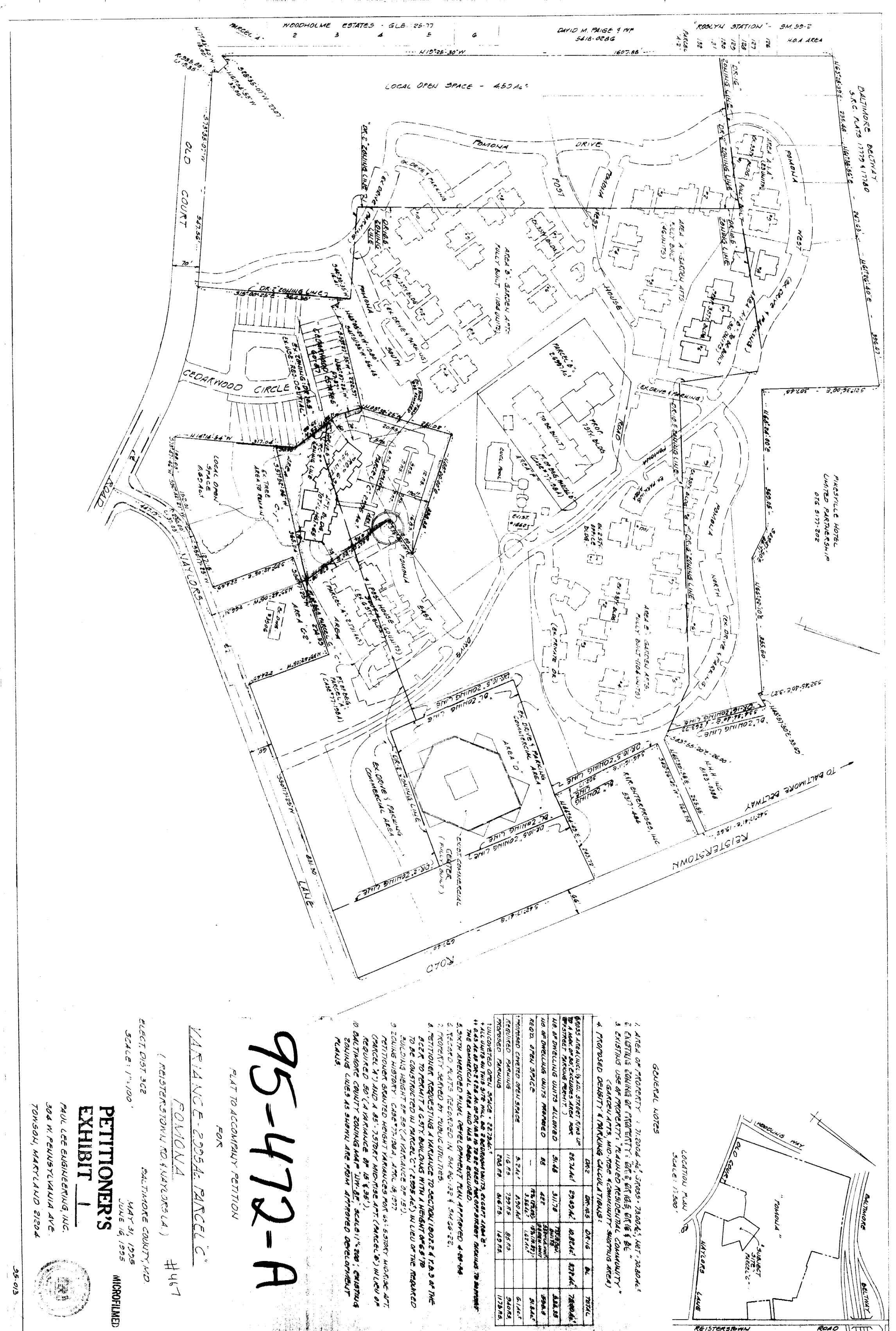
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### EXHIBIT B

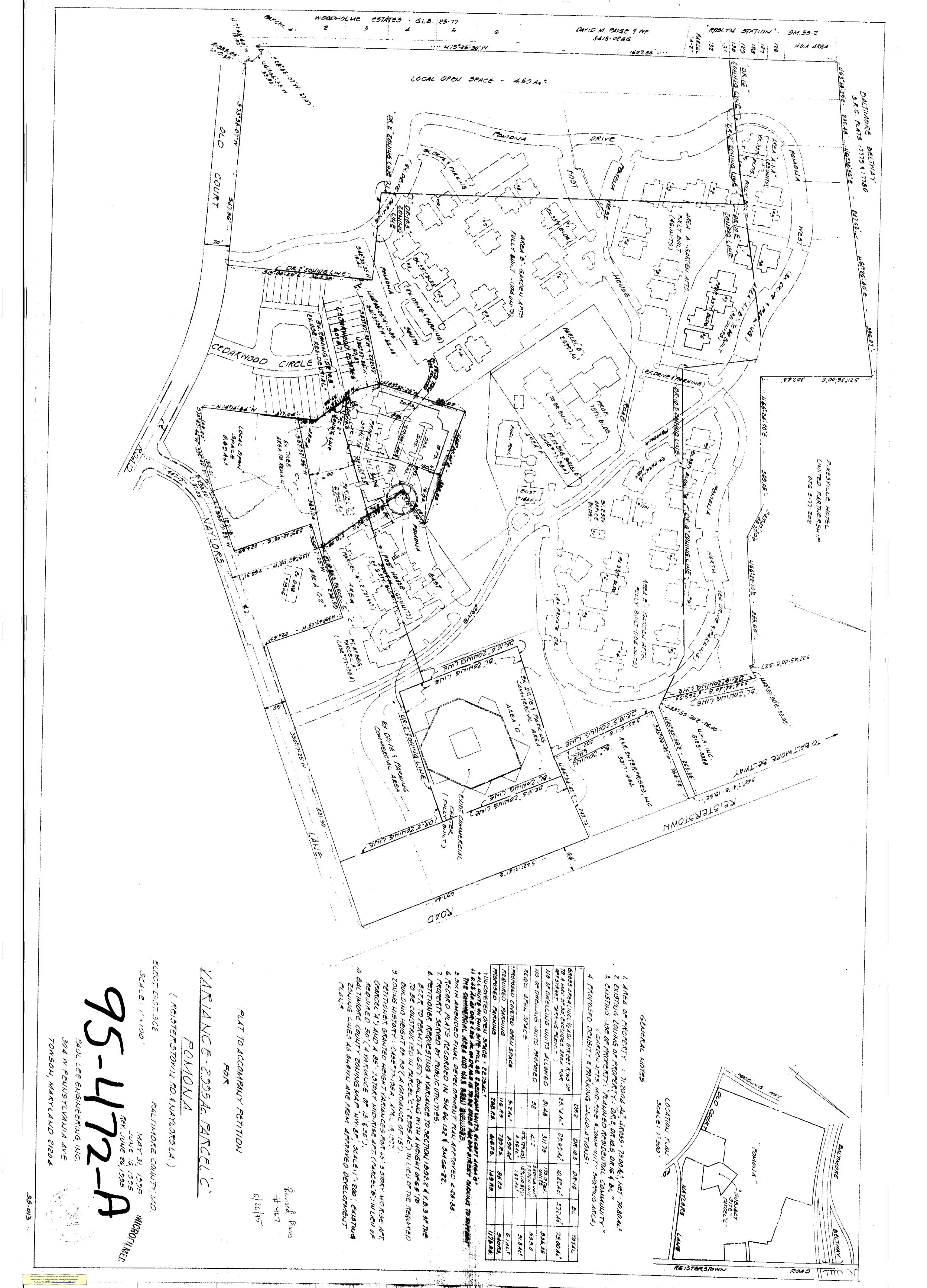
CLERK'S NOTATION

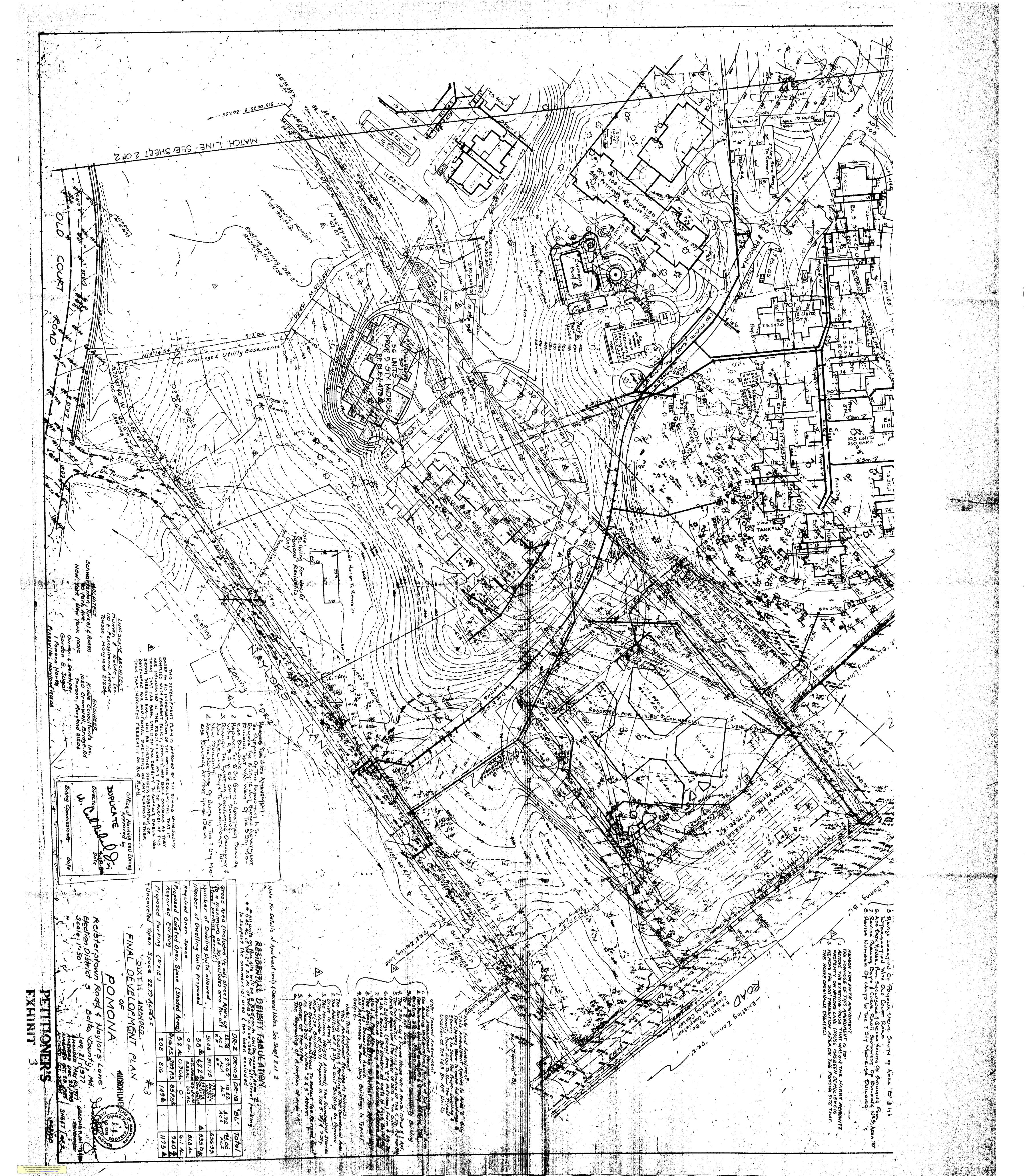
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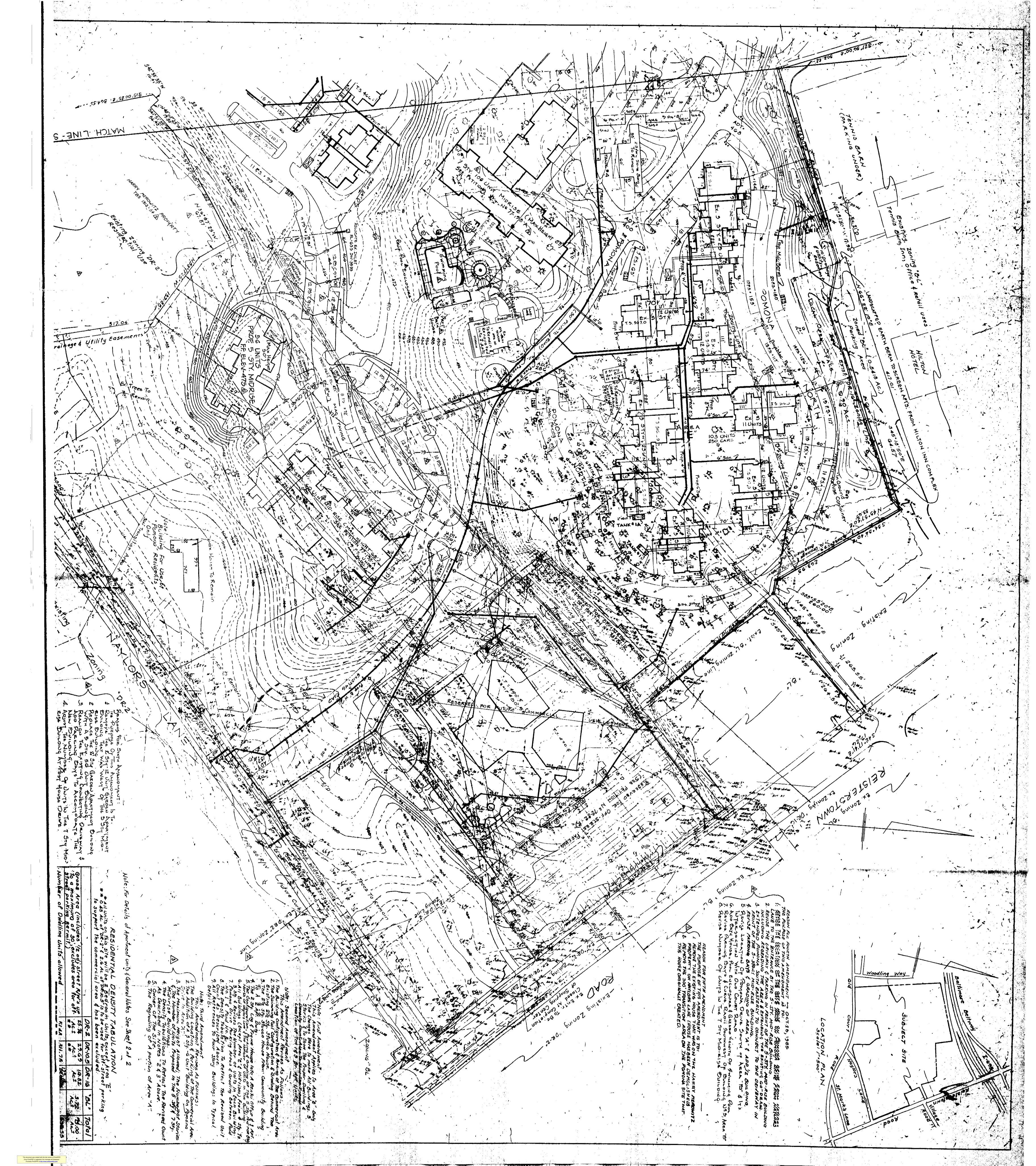


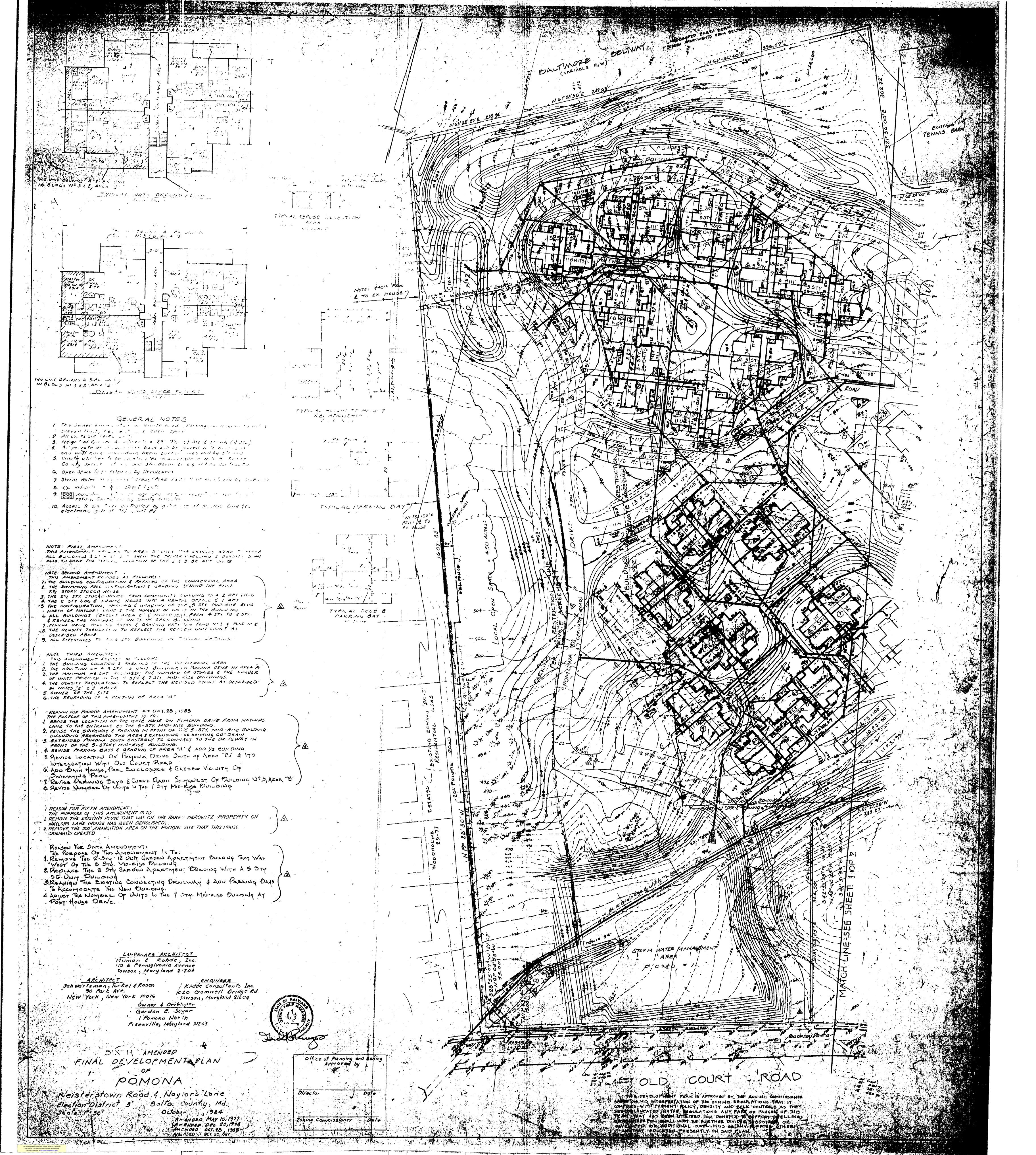


REISTERS BUILD









\* BEFORE THE \* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY \* Case No. 95-472-A

Pomona Associates Petitioners

# FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* \* \* \* \* \* \* \* \* \*

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as Parcel C of Pomona, a planned residential community located off of Reisterstown Road and Naylors Lane, just north of Old Court Road in Reisterstown. The Petition was filed by the owners of the property, Pomona Associates, by Gordon Sugar, General Partner, through their attorney, Richard Rubin, Esquire. The Petitioners seek relief from Section 1B02.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section V.B.3 of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a building height of 65 feet in lieu of the maximum permitted 50 feet for a proposed six-story building on the subject site containing 2.995 acres. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Gordon Sugar, General Partner in Pomona Associates, property owner, Paul Lee, Professional Engineer who prepared the site plan for this project, and Tom Inwood, IV, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of 2.995 acres, more or less, split zoned D.R.2, D.R. 10.5, D.R.16 and B.L. and is located within the garden and mid-rise apartment community of Pomona. The Petitioners are desirous of developing the property with a six-story apartment building containing 55 units. Due to the size of the structure, the requested height variance is necessary. Testimony indicated that the proposed height of the building is consistent with the restrictive covenants agreement which was entered into between the property owners and the neighborhood community association whereby a large percentage of this development will remain undeveloped. A copy of this agreement was entered into evidence as Petitioner's Exhibit 2. Further testimony indicated that the Petitioners have met with adjoining property owners who have no objections to the variance.

The B.C.Z.R., specifically Section 307.1, established a two-step process for the granting of variances. That two-step process was addressed and identified by the Court of Special Appeals in the case of Cromwell v. Ward, 102 Md. App. 691 (1995). The opinion in that case, issued January 4, 1995 and authored by the Honorable J. Cathell, interpreted our regulations to require the applicant to establish the following:

First, the Applicant (Petitioner) must prove, and this Deputy Zoning Commissioner must find, that the "property whereon structures are to be placed (or uses conducted) is -- in and of itself-- unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property."

I find from the testimony and evidence presented in this case that the subject property is unique, unusual and different from properties which surround the subject site so as to cause this applicable zoning provision to impact disproportionately upon this particular parcel of land.

Having satisfied this "first step" the Applicant (Petitioner) must proceed to the "second step" of this variance process, which is to show that strict compliance with the zoning regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

The practical difficulty or unreasonable hardship guidelines that have been imposed by the Baltimore County Zoning Regulations (B.C.Z.R.) have been thoroughly examined and discussed by the appellate courts of this State. In Loyola Federal Savings and Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the Court of Appeals considered the identical regulation to Section 307.1 of the B.C.Z.R.

As the Court noted: "Section 307 of the Regulations uses the two terms (practical difficulty or unreasonable hardship) in the disjunctive." Loyola Federal, p. 358. Thus, by the use of the term "or", Section 307 offers the Petitioner an opportunity to obtain its variance upon satisfaction of either the undue hardship or practical difficulty standard.

The distinction between these standards was clarified by the Court of Special Appeals in Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974). Within that opinion, the Court held that the undue hardship standard applies to a petition for a use variance. The Court noted that a use variance, which permits a use on the property other than that specifically permitted in that particular district, requires the imposition of a higher standard. That is, to allow the change of use for a particular property requires the Petitioner to demonstrate real hardship, where the land cannot allow a reasonable return if used only in accordance with the use restrictions of the ordinance.

Compared with this heavy burden, the Court reviewed the practical difficulty standard applicable for area variances. The Court characterized

area variances as having a much less drastic effect than use variances, in that they seek relief only from height, area, setback, or side property line restrictions and would not affect the property's use, per se. The Court envisioned the impact of area variances on the surrounding locale to be less than that generated by use variances, and thus, the lesser practical difficulty standard applies. The prongs of that standard which must be satisfied by the Petition, as enunciated in Anderson, supra, are as follows:

- 1) whether compliance with the strict letter of restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
- 2) whether a grant of the variance applied for would do substantial justice to an applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief to the owner of the property involved and be more consistent with that afforded other property owners; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson. p. 39. See also McLean v. Soley, 270 Md. 208 (1973) at pps.

I find from the testimony and evidence presented at the hearing before me that the Applicants have in fact proven the practical difficulty standards as set forth above and that the variance requested should be granted. I further find that the granting of this variance is in strict harmony with the spirit and intent of the B.C.Z.R. and that the granting of this relief is accomplished without injury to the public health, safety or general welfare.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this  $7^{71}$  day of August, 1995 that the Petition for Variance seeking relief from Section 1802.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) and Section V.B.3 of the Comprehensive Manual of Development Policies (C.M.D.P.) to permit a building height of 65 feet in lieu of the maximum permitted 50 feet for a proposed six-story building on the subject site containing 2.995 acres, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

> 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

TMK:bjs

lunthy Hotron Deputy Zoning Commissioner for Baltimore County

**Baltimore County Government** Zoning Commissioner Office of Planning and Zoning

Suite 112 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

August 7, 1995

Richard Rubin, Esquire Tom Inwood, IV, Esquire One South Street, 27th Floor Baltimore, Maryland 21202

RE: PETITION FOR VARIANCE SW/S Reisterstown Road and NW/S Naylor's Lane (Pomona Apartments) 3rd Election District - 2nd Councilmanic District Pomona Associates - Petitioners Case No. 95-472-A

Dear Messrs. Rubin and Inwood:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Permits and Development Management office at 887-3391.

> lew they Hotroco TIMOTHY M. KOTROCO Deputy Zoning Commissioner

for Baltimore County

TMK:bjs

cc: Mr. Gordon E. Sugar, General Partner Pomona Associates, 1 Pomona North, Pikesville, Md. 21208

Mr. Paul Lee 304 W. Pennsylvania Avenue, Towson, Md. 21204

People's Counsel

Petition for Variance
to the Zoning Commissioner of B-95-472-A to the Zoning Commissioner of Baltimore County
Southwest Side/Reisterstown Road and for the property located at Northwest Side/Naylor's Lane, Parcel C 3rd District

which is presently zoned DR2 & DR10.5 This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, logal owner(s) of the properly situate in Baltimore County and which is described in the description and plat attached. hereto and made a part hereof, hereby potition for a Variance from Section(s) Petitioner is requesting a variance to section 1B02.2 & V.B.3 of the BCZR to permit a 5 story building with a height of 65' to be constructed in Parcel "C" (2.995 Ac.) in lieu of the required building height of 50' (a variance of 15'). of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or

1. Restrictive covenants on said property resulting from an agreement with the neighborhood community association whereby a large percentage of the entire tract is restricted from any development whatsoever. 2. That the topographical characteristics of said property, including an existing stream and its natural flood plain and utility right-of-ways, Property is to be posted and advertised as prescribed by Zoning Regulations. (See continuation

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Comment Bernard Comment	I/We do scientify decisive and affirm, under the ponether of porjuly, that the arrival owner(s) of the property which is the subject of this Patition.				
Contract Purchaser/Lanuer	Legal Owners)				
(Type or Princ Name)	Pomona Associates				
-	By:				
	Gordon E. Sugar, General Parts				
Account	Gordon B. Dagar, General, Farch				
	(Type of Phrit Name)				
	(Type or Part Nume)				
	(Type or Print Name) Signature				
State Zocode					
State Zoccole Stormey to Pettorner Richard Rubin, Esquire					
State Zoccole Stormey to Pettorner Richard Rubin, Esquire	1 Pomona North 486-6394				
	1 Pomona North 486-6394 Address Phone No				

Phone No 332-8509

One South Street, 27th Floor, Baltimor Marvland 21202 Process 332-8509 Accress Maryland 21202 REVIEWED BY: MICH DATE 6/16/95

Continuation Sheet A

make the development of the restricted portion of the property extremely difficult unless a portion thereof is developed in midrise units.

3. That the property contains numerous old. large trees and shrubs which cannot be preserved unless the density of development is concentrated to avoid destruction of these valuable and desirable natural assets.

- 5-

95-472-A

Paul Lee Engineering Inc. 304 W. Ponnsylvania Acc. Towson, Maryland 21204 410-821-5941 DESCRIPTION

PARCEL "C" - 2.995 ACRE PARCEL PART OF THE LANDS OF POMONA, INC.

Southwest of Reisterstown Road, Northwest of Naylors Lane Election District 3 Baltimore County, Maryland

Beginning for the same at a point, said point being located from the center of Old Court Road Northeasterly - 447.19 feet along the center of Naylors Lane and leaving said center of Naylors Lane N  $39^{\circ}42'05"$  W - 266.31 feet, thence (1) S  $57^{\circ}52'06"$  W 365.04 feet to intersect the Eastern Boundary Of Cedarwood Estates as recorded in Plat Book 60-87; thence binding on said Eastern Boundary (2) N 14<sup>o</sup>14'54" W - 50.00 feet, (3) N 58<sup>o</sup>17'25" W -139.85 feet and (4) N 36<sup>0</sup>07'25" W - 67.87 feet; thence leaving said Eastern Boundary of Cedarwood Estates, the two following courses (5) N 03<sup>0</sup>32'25" W - 251.02 feet and (6) N 88<sup>0</sup>00'00" E -338.05 feet to intersect the Northern limit or 3rd line of the 2.1711 acre parcel as described in Variance Case # 77-198A, thence binding reversely on a part of said 3rd line and the 2nd line

(7) S  $35^{\circ}$ 00'00" W - 110.00 feet and (8) S  $55^{\circ}$ 00'00" E - 270.00 feet

to the point of beginning. Containing 2.995 acres of land more or less.



J.O. 95-013

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY 95-477-A

Location of property: Naylons Lans Location of Signe Freing you for forper ly bring 70xod

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows: Case: #95-472-A
(Item 467)
Pomona Apartments
NW/S Naylors Lane, between the N/S Old Count
Read and SW/S Rebuilding with a height of 65 feet to be constructed in Parcel "C" in lieu of the required building LAWRENCE E. SCHMIDT NOTES: (1)Hearings are Handi-capped Accessible; for special ac-887-3353.
(2)For information concerning the File and/or Hearing, Please Call 887-3391.
6/371 June 29.

NOTICE OF HEARING

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_ successive 

1 West Chescpeake Avenue wson, Mary land 21204 Date 5/16/95 Pomona Associates - suls o- Restation PC Muls of Maylow love 1.

Development Management

020 - Francis - # 250.00 030- 1 5110 \$ 35.00 10 C B 2 85 - C-

Please Make Checks Payable To: Baltimore County

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT DATE 6/26/95 Itcm# 467 Taken By . Topola AMOUNT \$ 100.00 suls Rent than Re aciós laylors La. FOR: 110 - Size From (Com Recision - \$ 10000 D3AD3#DB66MICHRC PA 5003:14PM03-28-95 VALIDATION OR SIGNATURE OF CASHIER

Baltimore County Government Office of Zoning Administration



HT West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

 Posting fees will be accessed and paid to this office at the time of filing.

2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper. NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

\_\_\_\_\_\_\_ For newspaper advertising: Item No.: 467 Petitioner: Pomona Associates

Southwest Side of Ocidates Pl

Location: North west Side at Naylor's how PLEASE FORWARD ADVERTISING BILL TO: NAME: Richard Rubin, Especie ADDRESS: 27th Floor, One South Street Balto mo. 21202 PHONE NUMBER: (410) 332 - 8509

AJ:ggs

(Revised 04/09/93)

TO: PUTUXENT PUBLISHING COMPANY June 22, 1995 Issue - Jeffersonian

Richard Rubin, Esq. One South Street, 27th Floor

Baltimore, MD 21202

332-8509

Please foward billing to:

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-472-A (Item 467) Pamona Apartments NW/S Naylors Lane, between the N/S Old Court Road and SN/S Reisterstown Road 3rd Election District - 2nd Councilmanic Legal Owner(s): Pomona Associates HEARING: THURSDAY, JULY 20, 1995 at 11:00 a.m. in Room 118, 0ld Courthouse.

Variance to permit a 6-story building with a beight of 65 feet to be constructed in Parcel "C" in lieu of the required building height of 50 feet.

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCORMODATIONS PLEASE CALL 887-3353. (2) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management



(410) 887-3353

June 22, 1995

111 West Chesapeake Avenue

Towson, MD 21204

NOTICE OF HEARING

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Department of Permits and Development Hanagement

cc: Pamona Associates Richard Rubin, Esq.

Printed with Soybean Ink on Recycled Paper

NOTES: (1) ZORING SIGH & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEARE AVERUE OF THE HEARTHY DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR IMPORNATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

July 13, 1995

Richard Rubin, Esquire 27th Floor, One South Street Baltimore, Maryland 21202

RE: Item No.: 467 Case No.: 95-472-A Petitioner: Pomona Associates

Dear Mr. Rubin:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on June 16, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested. but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

W. Carl Richards, Jr.

Zoning Supervisor

WCR/jw Attachment(s) BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

					•	
d.	Jublon.	Director.	ZADM			

FROM: Pat Keller, Director, OPZ

Item Number: Petitioner:

Property Size:

Zoning: Requested Action:

SUMMARY OF RECOMMENDATIONS:

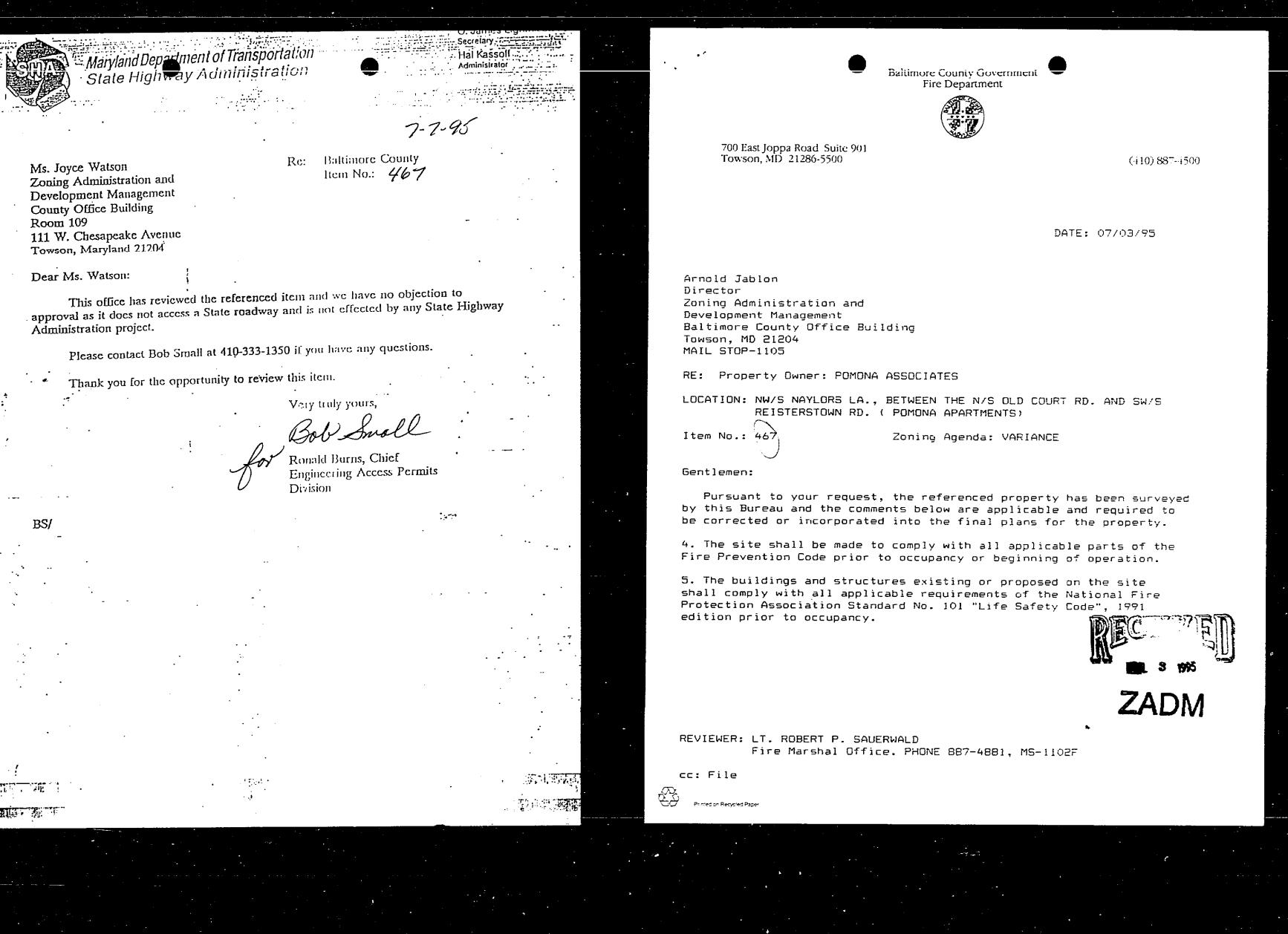
Based upon a review of the information provided, staff offers the following com-

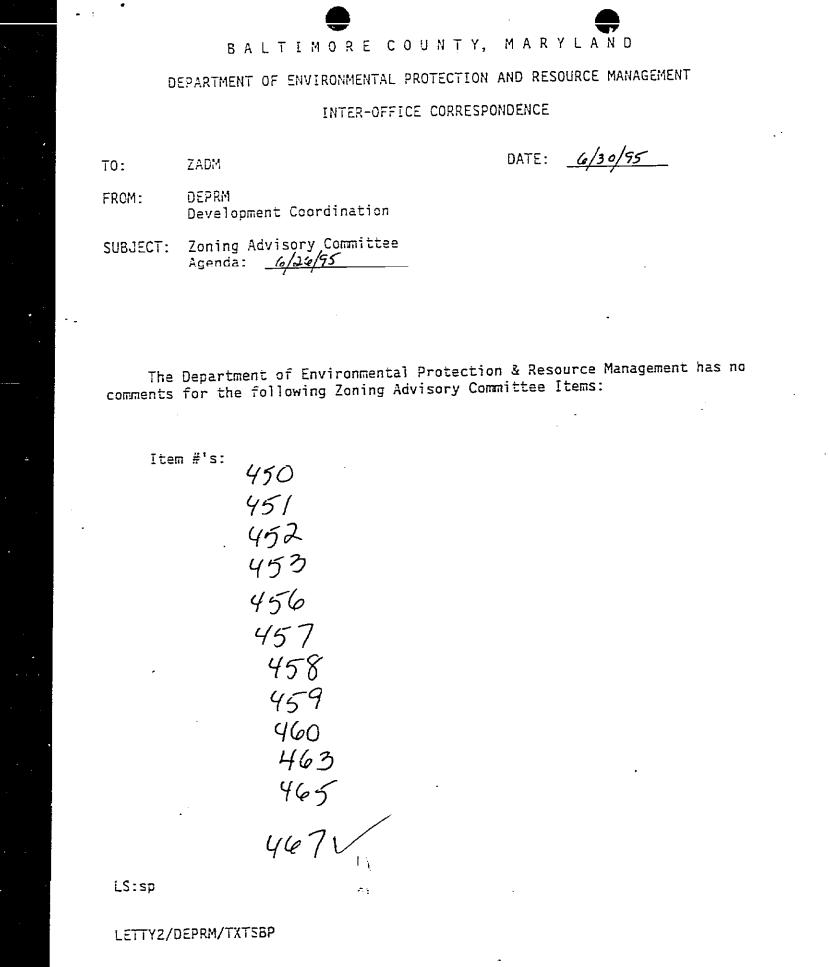
An analysis of the Sixth Amended Final Development Plan for Pomona (approved on April 28, 1988) indicates three proposed buildings. Of the three, a five story, 65' high, 60 unit midrise already exists on site. The plan also proposes a seven story, 85' high, 108 unit midrise and a five story, 50' high, 56 unit

The Office of Planning supports the petitioner's requested variance conditioned upon the applicant meeting with the Baltimore County Landscape Planner to ensure that the existing vegetation be retained between the proposed building and Cedarwood Estates.

Printed with Soybean Ink

ITEM467/PZONE/ZAC1





RE: PETITION FOR VARIANCE \* BEFORE THE

NW/S Naylors Lane, between the N/S Old

Court Road and SW/S Reisterstown Road \* ZONING COMMISSIONER

3rd Election District, 2nd Councilmanic \* OF BALTIMORE COUNTY

Pomona Associates
Petitioner \* CASE NO. 95-472-A

### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

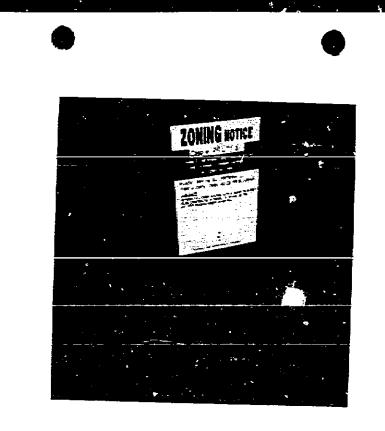
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

## CERTIFICATE OF SERVICE

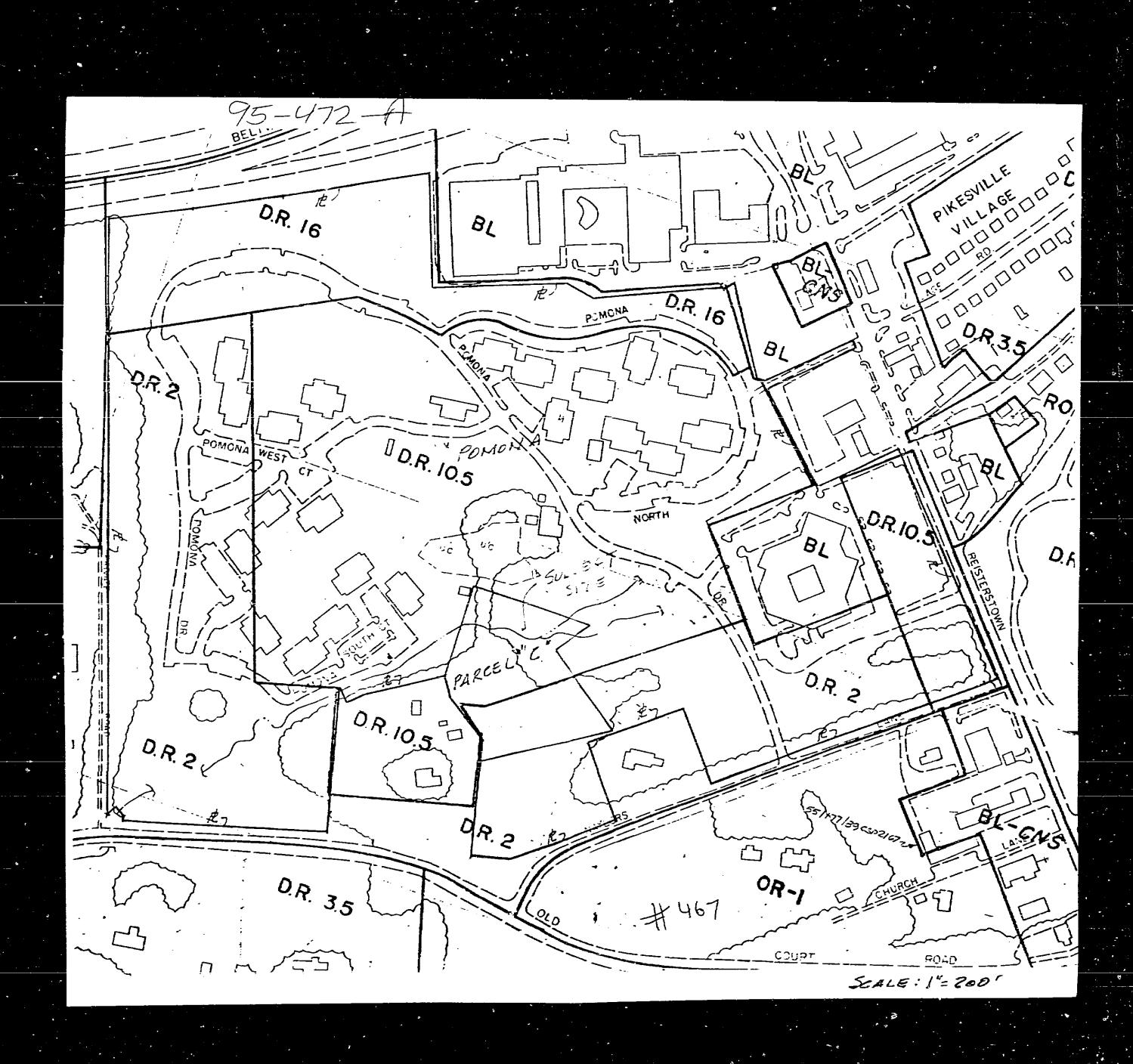
I HEREBY CERTIFY that on this 31 day of July, 1995, a copy of the foregoing Entry of Appearance was mailed to Richard Rubin, Esquire, One South Street, 27th Floor, Baltimore, MD 21202, attorney for Petitioner.

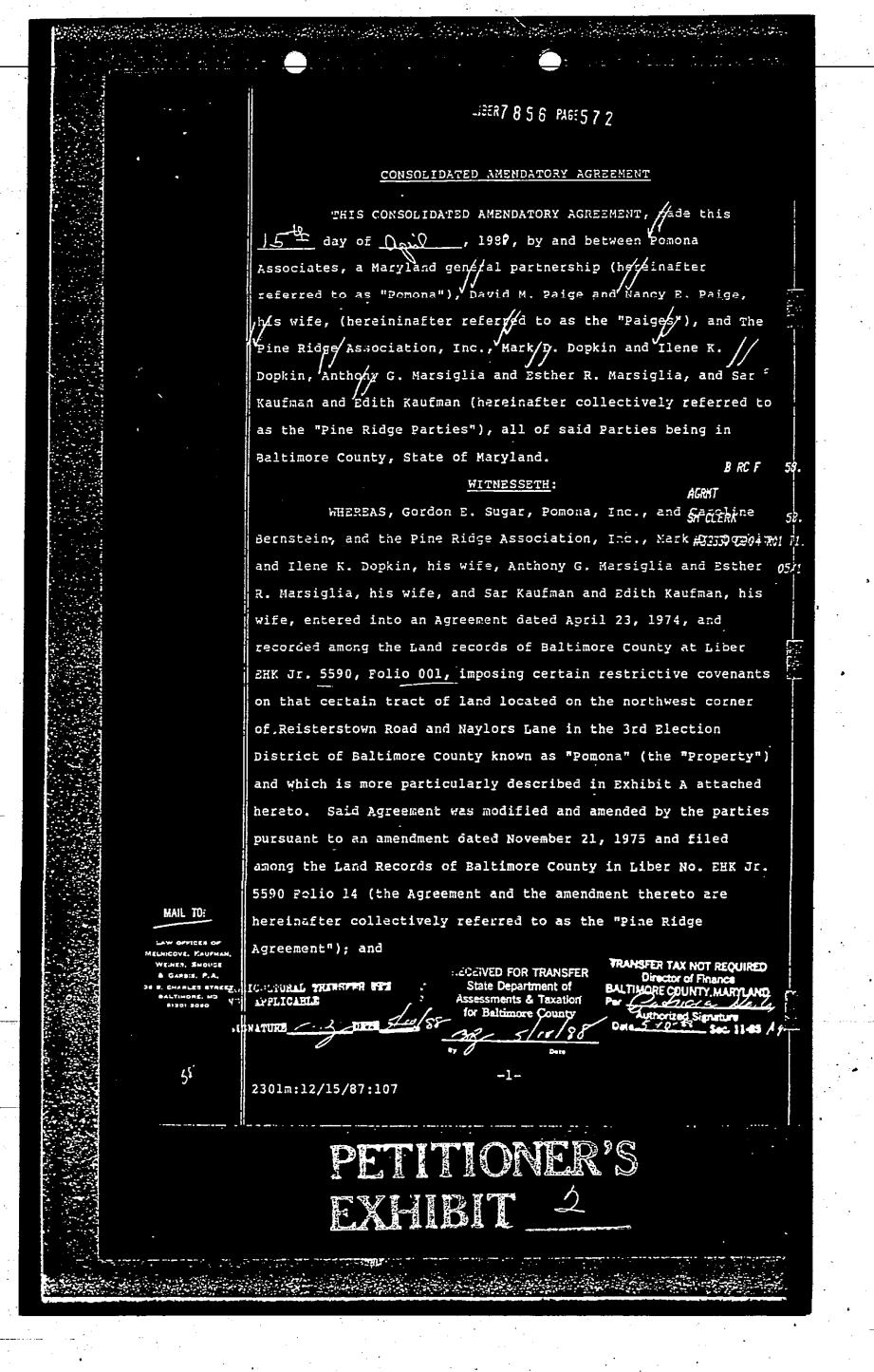
Peter Max Zimmerman

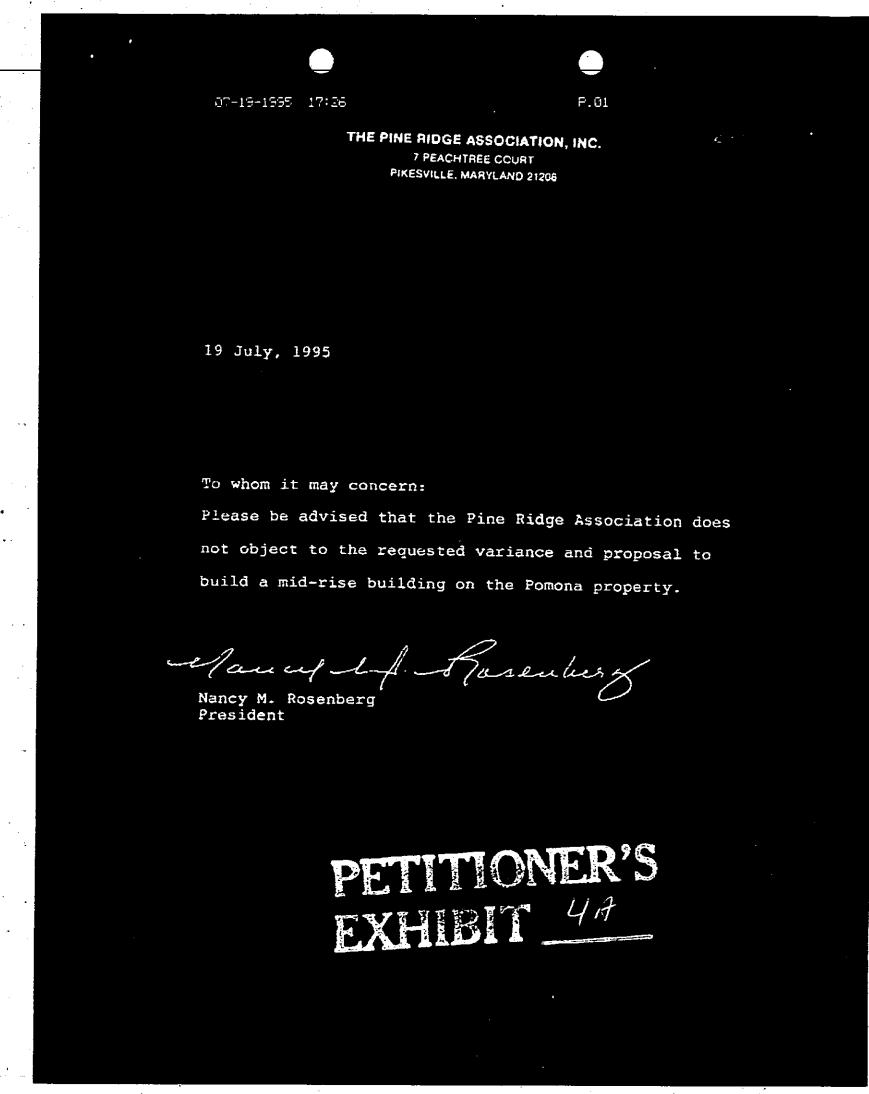
Paul Loc, P.E. Paul Lee Engineering Inc. 304 W. Pennsylvania Ave. Towson, Maryland 21204 410-821-5941 June 26, 1995 # 467 Mr. Mitch Kellman County Office Building Towson, Maryland 21204 Re: Special Hearing Pomona - Item #467 Our J.O. 95-013 Dear Mr. Kellman: Please find enclosed herewith 12 prints of the revised Site Plan for the zoning petition for the above mentioned site. The revision was due to a change to the building size and location. I have also ebclosed a check for \$100.00 for the cost of the re-filing. Trusting the enclosed is satisfactory. If there are any questions, please do not hesitate to call this office. PL:lp Enclosures cc: Mr. Gordon Sugar w/encl Mr. Rich Rubin w/encl.

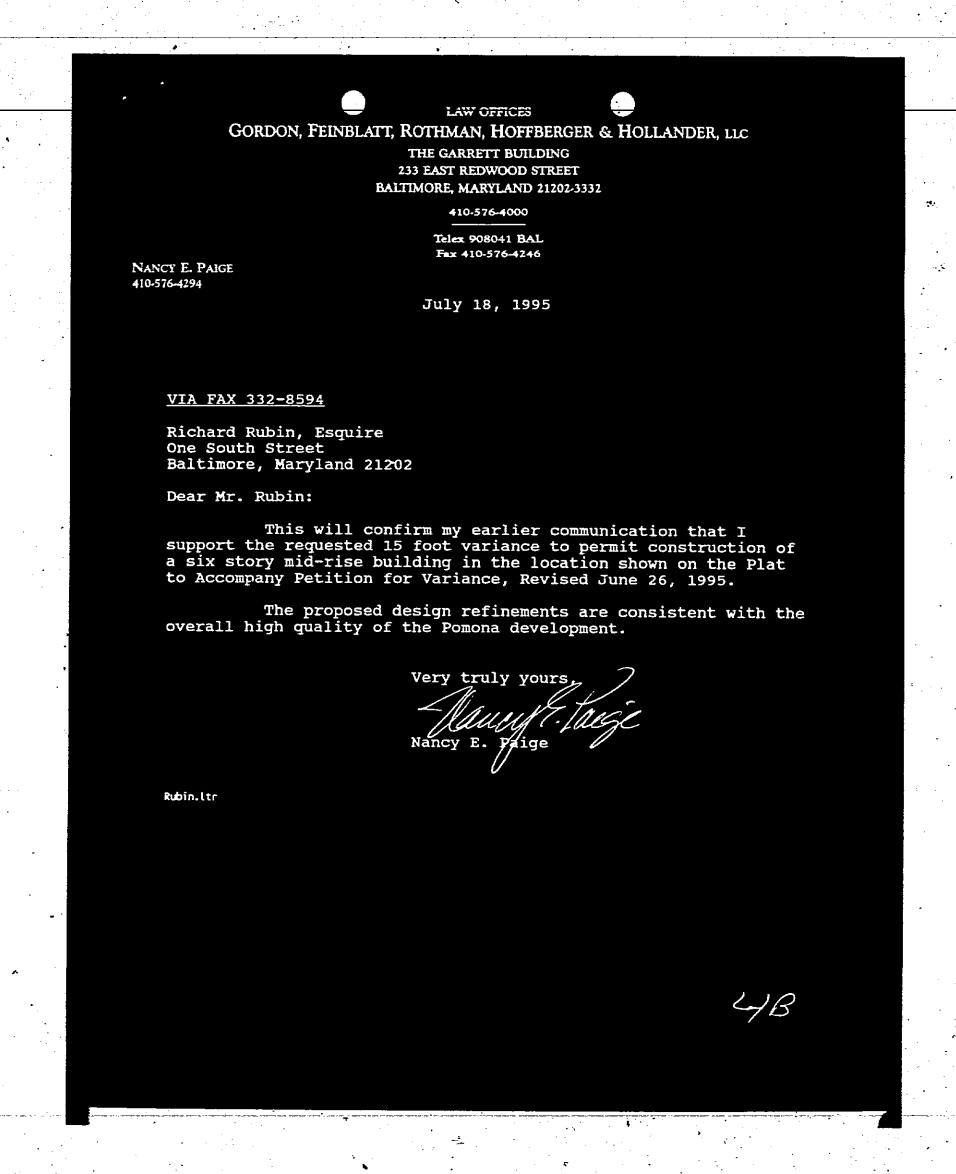


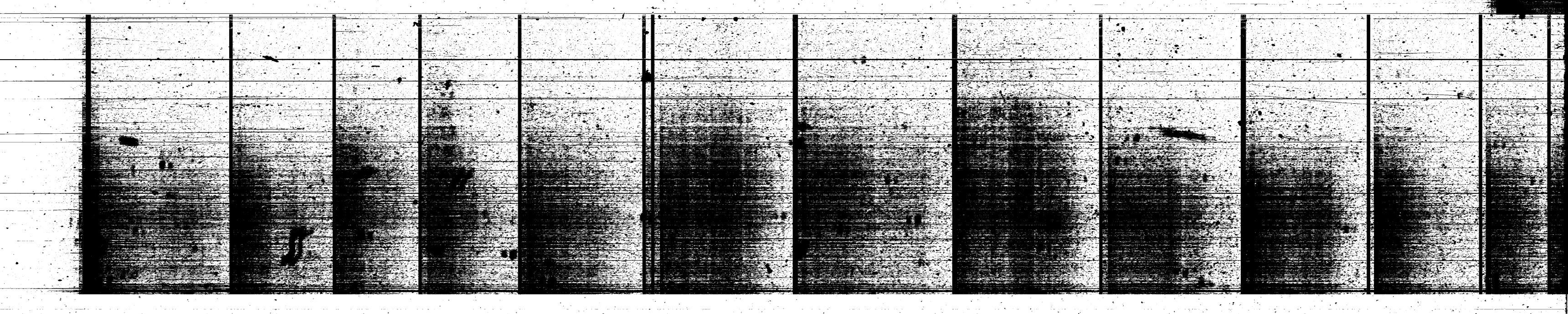
95-472-A



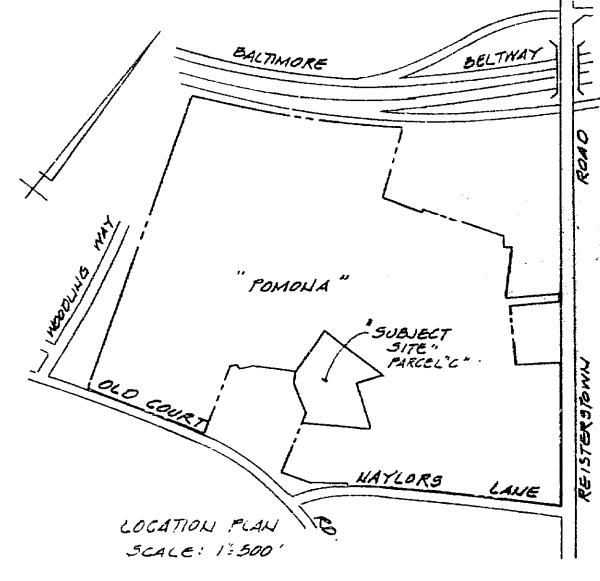












# GENERAL NOTES

- 1. AREA OF PROPERTY : 71.2004 Act, GROSS . 73.00 Act, NET = 70.80 Act
- 2. EXISTING ZONING OF PROPERTY: "DR.Z, DR 10.5, DR 16 4 BL"
- 3 EXISTING USE OF PROPERTY: PLANNED RESIDENTIAL COMMUNITY" (GARDEN AFTS., MID-RISE & COMMUNITY SHOPFING AREA)
- 4 PROPOSED DENSITY & PARKING CALCULATIONS:

	DR.Z	DR-10.5	DR-16	BL	TOTAL
SROSS AREA (INCL. 1/2 ADJ. STREET R/W3 UP TO A MAX. OF 30', EXCLUDES AREA FOR OFFSTREET PARKING PERMIT. )	25.74 Act	29.69Ac.	10.82Act	3.72 Ač.	75.00 Ac.
UD. OF DWELLING UNITS ALLOWED	51.48	311.75	173.12 OEN. ONITS		536,35
10. OF DWELLING UNITS PROPOSED	58	422	550HLB.UNIT. 550EN.UNIT		535.0
REQD. OFEN SPACE	_	12% (29.69); 3.5646.°	15% (10.82) - 1.62 Ac.		51.8.Ac.
PROPOSED COVETED OPEN SPACE	5.2Ac*	0.90 Act			G.IAC.
REQUIRED PARKING	116 F.S.	75985.	85 P.S.		SAORS,
PROPOSED PARKUNG	208 P.S.	31675.	149 85.		117385.

- TUNCOVETED OPEN SPACE . 22.79Ac.
- + ALL UNITS ON THIS SITE WILL BE 2 BEDROOM UNITS, EXCEPT AREA'E."
  ++ 0.43 AC. OF DR-2 426 AC. OF DR 10.8 IS TO BE USED FOR OFF STREET PARKING TO SUPPORT
  THE COMMERCIAL AREA AND HAS BEEN EXCLUDED
- 5.5 XTH AMENDED FINAL DEVELOPMENT PLAN APPROVED 4-28-88. 6 RECORD PLATS RECORDED IN 5M 36-132 \$ 5M 66-22.
- 7. PROPERTY SERVED BY PUBLIC UTILITIES.
- 8. PETITIONER REQUESTING A VARIANCE TO SECTION IBOZZ & V.B. 3 OF THE BOZR TO PERMIT A GOTY BUILDING WITH A HEIGHT OF 65'TO
- TO BE CONSTRUCTED IN PARCEL'C" ( 2.995 Act) IN LIEU OF THE REQUIRED BUILDING HEIGHT OF SO ( A VARIANCE OF 15').
- 3. ZONING HISTORY: CASE 77-1984, APRIL 15, 1977
- PETITIONER GRANTED HEIGHT YARIANCES FOR 65- 5 STORY MID-RISE APT. (PARCEL A") AND A 85'-75TORY MID-RISE APT. (PARCEL'B') IN LIEU OF REQUIRED 50' (A YARIANCE OF 15' \$ 35').
- 3 BALTIMORE COUNTY ZONING MAP "HW-8F", SCALE: 1"- 200; EXISTING ZONING LINES AS SHOWN ARE FROM APPROVED DEVELOPMENT PLANS.

95-472-A

PLAT TO ACCOMPANY PETITION FOR

YARIANCE - 2.335 Ac. PARCEL C"

POMONA ( REISTERSTOWN RO. & NAYLORS LA.)

ELECT, DIST. 3CZ 5CALE: 1"=100" BALTIMORE COUNTY, MD. MAY 31, 1995

JUNE 16, 1995

PETITIONER'S EXHIBIT\_

PAUL LEE ENGINEERING, INC. 304 W. PENNSYLVANIA AVE. TOWSOH, MARYLAND 21204



